

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ERICA MAITLAND,

Plaintiff,

v.

ORDER

20-CV-3892 (MKB)

TARGET CORP. d/b/a TARGET,

Defendant.

MARGO K. BRODIE, United States District Judge:

Plaintiff Erica Maitland commenced this action on September 23, 2019, in the Supreme Court of New York, Kings County, against Defendant Target Corporation, doing business as Target. (Compl., annexed to Not. of Removal as Ex. A, Docket Entry No. 2-1.) Defendant removed the proceeding to the Eastern District of New York on August 24, 2020, based on diversity jurisdiction under 28 U.S.C. § 1332. (Not. of Removal, Docket Entry No. 2.) Plaintiff sought damages for injuries she sustained when a shelf fell on her in a Target store, alleging that Defendant’s negligence caused the shelf to fall on her and injure her. (Compl. ¶¶ 2–7.)

On September 26, 2023, the Court granted Defendant’s motion for summary judgment (the “September 2023 Decision”). (Sept. 2023 Decision, Docket Entry No. 31.) On September 27, 2023, the Clerk of Court entered judgment dismissing the case. (Clerk’s Judgment, Docket Entry No. 32.) On October 20, 2023, Plaintiff appealed the September 2023 Decision to the Second Circuit. (Not. of Appeal, Docket Entry No. 33.) On February 20, 2024, the Second Circuit transferred Plaintiff’s motion for leave to proceed in forma pauperis (“IFP”) to the Court “for a determination of IFP status” and held Plaintiff’s motion in abeyance pending the Court’s determination. (2d Cir. Order dated Feb. 20, 2024, Docket Entry No. 34.)

I. Discussion

Pursuant to Rule 24 of the Federal Rules of Appellate Procedure, “a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court,” with an affidavit that “(A) shows . . . the party’s inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.” Fed. R. App. P. 24(a)(1). “Generally an application for leave to appeal in forma pauperis will have sufficient substance to warrant consideration only if . . . it identifies with reasonable particularity the claimed errors which will be the basis for the appeal.” *United States v. Farley*, 238 F.2d 575, 576 (2d Cir. 1956); *Azeez v. City of New York*, No. 16-CV-342, 2022 WL 1205094, at *2 (E.D.N.Y. Apr. 22, 2022) (“The statement of issues must sufficiently ‘apprise the court of the foundation for [the party’s] appeal or the arguments that [s]he plans to raise in support of [her] case.’” (first alteration in original) (quoting *Purissima v. Tiffany Ent.*, No. 09-CV-3502, 2018 WL 7063128, at *1 (E.D.N.Y. Jan. 25, 2018))). The decision to grant an in forma pauperis motion is within the discretion of the district court. *See, e.g., Sagy v. Am. Bankers Ins. Co. of Fla.*, No. 20-CV-4199, 2023 WL 5306567, at *1 (E.D.N.Y. May 23, 2023); *Azeez*, 2022 WL 1205094, at *2.

The Court finds that Plaintiff has made a prima facie showing that she qualifies for in forma pauperis status because she attests that her monthly expenses exceed her income and that she would be unable to pay the filing fee for her appeal, and she challenges the Court’s finding that she did not satisfy *res ipsa loquitur*’s “exclusive control” prong, arguing that “Defendant did have exclusive control of [the] [h]eavy [b]ig [r]ectangular beige cream color shelf.” Pl.’s Mot. for Relief In Forma Pauperis, *Maitland v. Target Corp.*, No. 23-7520 (2d Cir. filed Nov. 2, 2023).

II. Conclusion

For the reasons discussed above, the Court grants Plaintiff's in forma pauperis application. The Clerk of Court is directed to notify the parties and the Second Circuit of this decision, as required by Rule 24(a)(4) of the Federal Rules of Appellate Procedure.

Dated: March 15, 2024
Brooklyn, New York

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge